

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA	*	
	*	
v.	*	Criminal No. WMN-11-512
	*	Civil Action No. WMN-14-1409
JOSEPH BASSETT	*	
	*	
	*	
* * * * *	*	

**ORDER**

On June 16, 2016, this Court issued a Memorandum and Order denying Defendant's motion to vacate his sentence under 28 U.S.C. § 2255. ECF Nos. 70, 71. Defendant has moved for reconsideration of that decision, ECF No. 74, and for leave to "supplement" his previous motion. ECF No. 72. The Court finds that both of these pleadings merely restate the same arguments made in Defendant's original motion - arguments that were fully considered by the Court and rejected by the Court in that previous opinion. These motions will be denied.

Pursuant to Rule 11(a) of the Rules Governing Proceedings under 28 U.S.C. § 2255, this Court is required to issue or deny a certificate of appealability when it enters a final order adverse to the applicant. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Where the court denies a petitioner's motion on its merits, a petitioner satisfies this standard by demonstrating that

reasonable jurists would find the court's assessment of the constitutional claims debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000). Because reasonable jurists would not find Defendant's claims debatable, a certificate of appealability will be denied.<sup>1</sup>

Defendant has also filed a "successive" petition for relief under 28 U.S.C. § 2255 raising issues under Johnson v. United States, 135 S. Ct. 2551 (2015). ECF No. 73. Pursuant to 28 U.S.C. § 2244(b)(3)(A), "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." Thus, Petitioner must first obtain an order from the United States Court of Appeals for the Fourth Circuit before this Court will consider any successive petition under 28 U.S.C. § 2255. Petitioner has not shown that he has obtained the permission of the United States Court of Appeals for the Fourth Circuit to file a successive petition. See also 28 U.S.C. § 2255(h) ("[a] second or successive motion must be certified as provided in section 2244 by a panel of the

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<sup>1</sup> Defendant remains free to seek a certificate of appealability from the Fourth Circuit Court of Appeals.

appropriate court of appeals." ). Accordingly, this successive petition must be dismissed.

Accordingly, IT IS this 28<sup>th</sup> day of September, 2016, by the United States District Court for the District of Maryland,

ORDERED:

- 1) That Defendant's motion to supplement his previous motion, ECF No. 72, is DENIED;
- 2) That Defendant's motion for reconsideration, ECF No. 74, is DENIED;
- 3) That Defendant's successive petition, ECF No. 73, is DISMISSED;
- 4) That a Certificate of Appealability shall not issue; and
- 5) That the Clerk of the Court shall transmit a copy of this Order to Defendant and all counsel of record.

/s/

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William M. Nickerson  
Senior United States District Judge